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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/689,444	10/12/2000	Mina Farr	17516-007520	7384

20350 7590 12/31/2002

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EXAMINER

MULCAHY, JOHN M

ART UNIT	PAPER NUMBER
3739	

DATE MAILED: 12/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/689,444	FARR ET AL. <i>Or</i>
Examiner	Art Unit	
John M. Mulcahy	3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 21 October 2002.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-42 is/are pending in the application.
  - 4a) Of the above claim(s) 14-42 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 and 8 is/are rejected.
- 7) Claim(s) 6,7 and 9-13 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a)  The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                    | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3_5</u> . | 6) <input type="checkbox"/> Other: _____                                    |

***Election/Restrictions***

1. Applicant's election without traverse of Group I (claims 1-13) in Paper No. 7 is acknowledged. Claims 14-42 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

a. Claims 1-4 and 8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Bonnell et al. (5,833,596). See Fig. 14. An intermediate image 229 is formed within the objective lens system 206 in rod lens 228 having a refractive index of 4.0 (germanium). See col. 12, lines 58-65; col 13, lines 30-40; and col. 15, line 62.

b. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ibe (6,049,422). See Fig. 3. An intermediate image r17 is formed in a glass element having a refractive index of 1.72916. See col. 10, lines 6-10 and the table in col. 8.

c. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Broome (5,519,532). See Fig. 13. An intermediate image IL is formed in

rod lenses 46 and 48, each having a refractive index of 1.66446. See col. 19, lines 25-42 and Table I.

***Allowable Subject Matter***

3. Claims 6, 7 and 9-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to show or suggest the claimed optical train or endoscope in which no intermediate image is disposed within the objective- or ocular-relay gap. Rather, the prior art of record either lacks such gap (Bonnell et al.) or forms an intermediate image in such gap.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Mulcahy whose telephone number is (703) 308-3134. The examiner can normally be reached on M-F, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. M. Dvorak can be reached on (703) 308-0994. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Art Unit: 3739

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0873.

John M. Mulcahy  
Primary Examiner  
Art Unit 3739

  
John Mulcahy  
December 26, 2002